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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.11.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DURAI SWAMY
AND
THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.A.NO.1953 OF 2013

M.P.Venkatesan

... Appellant

Vs.

1. The Chairman,
Tamil Nadu Uniform Services,
Recruitment Board, Adyar, Chennai - 20.
2. The Director General of Police,
Mylapore, Chennai - 4.
3. The Director of Fire Services,
Egmore, Chennai - 600 008.

... Respondents

Appeal filed under Clause 15 of the Letters Patent against the order made in W.P.No.32040 of 2005 (O.A.No.2471 of 2002) dated 16.07.2012, filed before the Tamil Nadu Administrative Tribunal seeking for the relief of direction to respondents 2 and 3 to appoint the petitioner as Fireman pursuant to the selection made for the year 1999-2000 and award all consequential benefits accrued thereon.

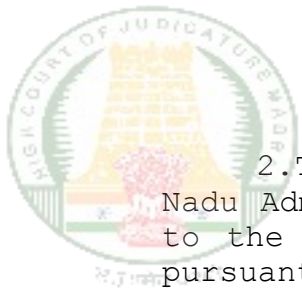
For Appellant : Mr.Ravi Shanmugam

For Respondents : Mr.C.Kathiravan,
Special Government Pleader

JUDGMENT

(Judgment was delivered by M.DURAI SWAMY, J.)

Challenging the order passed in the Writ Petition in W.P.No.32040 of 2005 dated 16.07.2012, the Writ Petitioner has filed the above Writ Appeal.



2.The appellant filed O.A.No.2471 of 2002 before the Tamil Nadu Administrative Tribunal seeking for the relief of direction to the respondents 2 & 3 to appoint the petitioner as Fireman pursuant to the selection made for the year 1999-2000 and award all consequential benefits accrued thereon. On abolition of the Tamil Nadu Administrative Tribunal, O.A.No.2471 of 2002 was transferred to this Court and re-numbered as W.P.No.32040 of 2005.

3.It is the case of the appellant that he applied for the post of Fireman in response to an advertisement issued by the 1st respondent and he was called for physical test where he scored 40 marks out of 45 and was also successful in the written examination and interview. The appellant, being in the select list, was subject to medical examination. However, the appellant was not issued with the letter of appointment, while other candidates selected with him were sent for training. The appellant was informed that he was not issued with the letter of appointment for the reason that he was facing a criminal case under Section 160 of the Indian Penal Code. The contention of the appellant was that the learned Judicial Magistrate released him by giving him the benefit under the Probation of Offenders Act and therefore, the conviction shall not stand in the way of the appellant seeking appointment.

4.It is not in dispute that the appellant suppressed the fact of the case registered against him in S.T.C.No.852 of 1998 under Section 160 of the Indian Penal Code on 09.07.1998. The appellant admitted the offence and was convicted and released under Section 3 of the Probation of Offender Act, 1958 on 09.07.1998 by the Judicial Magistrate, Cheranmadevi in S.T.C.No.852 of 1998. The appellant has not whispered a single word about the case registered against him in Column 15, 16 & 18 of the declaration submitted by him. Since the appellant had suppressed the material fact in Column 15, 16 & 18 of the Verification Roll filled up by him, he was not issued with the letter of appointment. Challenging the same, the appellant has filed the Writ Petition and the learned Single Judge dismissed the Writ Petition finding that the appellant was guilty of suppressing the material fact, hence, he is not entitled to extraordinary equitable relief under Article 226 of the Constitution of India. Challenging the said order, the appellant has filed the above Writ Appeal.

5.Since the appellant has suppressed the material fact as stated above, in Column 15, 16 & 18, he was rightly not issued with the letter of appointment. As rightly held by the learned Single Judge, it is settled position that a person guilty of suppressing material fact is not entitled to extraordinary



equitable relief under Article 226 of the Constitution of India. We do not find any ground to interfere with the order passed by the learned Single Judge. The Writ Appeal is devoid of merits and the same is dismissed. No costs.

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Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Chairman,
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Recruitment Board,
Adyar, Chennai - 20.
2. The Director General of Police,
Mylapore, Chennai - 4.
3. The Director of Fire Services,
Egmore, Chennai - 600 008.

+1cc to the Government Pleader, S.R.No.60663

W.A.No.1953 of 2013

PL(CO)
RLP(13/12/2021)